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6 **EDITTE LERMAN, Esq.** (SB#241471)

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12 Attorneys for Plaintiff
13 ZACHARIAH JUDSON RUTLEDGE

14 UNITED STATES DISTRICT COURT
15 FOR THE NORTHERN DISTRICT OF CALIFORNIA
16 OAKLAND DIVISION

17 * * * * *

18 ZACHARIAH JUDSON RUTLEDGE,

19 Plaintiff,

20 vs.

21 COUNTY OF SONOMA, MICHAEL
22 POTTS, RUSSEL L. DAVIDSON,
23 JAMES PATRICK CASEY, CHRISTINE
24 M. COOK, BEAU R. MARTIN,
25 J. MICHAEL MULLINS, STEPHAN R.
26 PASSALACQUA, GREG JACOBS,
SONOMA COUNTY SHERIFF'S
DEPARTMENT, SONOMA COUNTY
DISTRICT ATTORNEY'S OFFICE,
and DOES 1 through 40.

Defendants.

) CASE NO.: CV 07-04274 CW

)
) **MOTION, STIPULATION & ORDER**
) **FOR CONTINUENCE OF DUE DATE**
) **OF THIRD AMENDED COMPLAINT**
) **AND SUBSEQUENT MOTIONS TO**
) **DISMISS**

1 Plaintiff moves this Court for continuance of the July 20, 2008 due date of the Third
2 Amended Complaint, and states that this motion is made for the following reasons, and for good
3 cause shown:

4 1. On June 12, 2008 this Court issued a Minute Order (Doc 44) which ordered that
5 "Plaintiff to file amended complaint within 20 days after written order comes out. FCMC set for
6 9/2/08 at 2:00 p.m. Any motion to dismiss should be noticed for 9/2/08."

7 2. On July 1, 2008, this Court issued its written order regarding the 6/12/08 hearing
8 (Doc 45). Thus, the Third Amended Complaint was due July 20, 2008.

9 3. At the same time the July 1, 2008 Order was issued, Plaintiff's Counsel, J. David
10 Nick and Editte Lerman, were preparing for a three to four week trial in People v. Bogue, which
11 was set to begin July 14, 2008. Due the to time required to prepare for the trial, both, Mr. Nick
12 and Ms. Lerman were not able to set aside the necessary time required to research and prepare
13 the Third Amended Complaint. However, Counsel believed that the Bogue matter might settle
14 prior to the beginning of the trial.

15 4. On July 14, 2008 the Bogue matter settled.

16 5. On July 16, 2008, it became apparent that it would not be possible to complete a
17 final draft of the Third Amended Complaint by the July 20, 2008 deadline.

18 6. On July 16, 2008, Ms. Lerman requested a stipulation, via e-mail, from both
19 defendants for a two-week continuance to file the Third Amended Complaint in this case, with a
20 due date of August 4, 2008. On July 16, 2008, Ms. Freeman, Counsel for County Defendants,
21 stipulated to the request so long as Plaintiff also requests that the hearing date on further motions
22 is also continued two weeks.

23 7. Mr. Devine, Counsel to Michael Potts, did not respond to the e-mail.

24 8. On July 17, 2008, at approximately 4:10 p.m. Plaintiff's Counsel, made contact
25 with Mr. Devine via telephone, at which time, Mr. Devine, informed Ms. Lerman that he would

1 not stipulate to the continuance, because he believed that the stipulation was improper.

2 However, Mr. Devine did state that he would not oppose the motion to continue.

3 9. Plaintiff's Counsel needs additional time to research and complete the Third
4 Amended Complaint, and believes two weeks will be sufficient.

5 WHEREFORE, Plaintiff respectfully requests that the Court continue the due date of the
6 Third Amended Complaint to August 4, 2008, and to continue the hearing date of any further
7 motions to dismiss two weeks to a date thereafter, as available by the Court.
8

9 Respectfully submitted,

10 Dated: July 17, 2008

11
12 _____/S/_____

13 E. D. Lerman
14 Attorney for Plaintiff
Zachariah Rutledge

15
16 STIPULATION

17
18 Defendants, County of Sonoma, Sonoma County Sheriff's Department, Sonoma County
19 District Attorney's Office, Stephan Passalacqua, J. Michael Mullins, Greg Jacobs, Christine M.
20 Cook, Russel L. Davidson, James Patrick Casey, and Detective Beau M. Martin, through
21 Counsel, Bonnie A. Freeman, and Plaintiff, Zachariah Rutledge, through Counsel, E. D. Lerman,
22 hereby stipulate to continue the due date of Plaintiff's THIRD AMENDED COMPLAINT
23 currently set for July 20, 2008, to August 4, 2008, and to continue FCMC set for 9/2/08 at 2:00
24 p.m. and the hearing date for any motion to dismiss that currently should be noticed for 9/2/08,
25 two weeks, to a date to be set by this Court.

1 I hereby stipulate to the above described continuance:

2 Respectfully submitted,

3 Dated: July 17, 2008

4

5 -----/S/-----

6 E. D. Lerman
Attorney for Plaintiff
Zachariah Rutledge

7

8 Dated: July 17, 2008

9

10 -----/S/-----

11 Michael D. Senneff
Bonnie A. Freeman
Attorneys for Defendants
12 County of Sonoma, Sonoma County Sheriff's
Department, Sonoma County District Attorney's
13 Office, Stephan Passalacqua, J. Michael Mullins,
Greg Jacobs, Christine M. Cook, Russel L.
14 Davidson, James Patrick Casey, and Detective Beau
15 M. Martin

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ORDER

Satisfactory proof having been made and good cause appearing,

IT IS ORDERED THAT:

The due date for THIRD AMENDED COMPLAINT currently set for July 20, 2008, is continued to August 4, 2008;

And, to continue FCMC set for 9/2/08 at 2:00 p.m. and the hearing date for any motion to dismiss that currently should be noticed for 9/2/08, to _____, 2008.

Dated:

Hon. Claudia Wilken
UNITED STATES DISTRICT COURT JUDGE

DECLARATION OF SERVICE

I, Editte D. Lerman, declare as follows:

I am a resident of the State of California, residing or employed in Mendocino, California.

I am over the age of 18 years and am not a party to the above-entitled action. My business address is 45060 Ukiah Street P.O. Box 802, Mendocino C.A. 95460.

On July 17, 2008,

MOTION, STIPULATION & ORDER FOR CONTINUENCE OF DUE DATE OF THIRD AMENDED COMPLAINT AND SUBSEQUENT MOTIONS TO DISMISS

was filed and served upon the following parties via the Court's PACER-ECF electronic filing system.

Attorneys for Defendant Michael Potts

EDMUND G BROWN, JR.

Attorney General of the State of California

JOHN P. DEVINE, ESQ.

Deputy Attorney General of the State of California

California Department of Justice

455 Golden Gate Avenue, Suite 11000

San Francisco, CA 94102-7004

Attorneys for Defendants County of Sonoma, Sonoma County Sheriff's Department, Sonoma County District Attorney's Office, Stephan Passalacqua, J. Michael Mullins, Greg Jacobs, Christine M. Cook, Russel L. Davidson, James Patrick Casey, and Detective

Beau M. Martin

Michael D. Senneff

Bonnie A. Freeman

SENNEFF FREEMAN & BLUESTONE, LLP

50 Old Courthouse Square, Suite 401

P.O. Box 3727

Santa Rosa, CA 95402-3729

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 17th day of July, 2008, at Mendocino, California.

_____/s/_____
Editte Lerman